

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of Illuminations,
a New Hampshire Corporation.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Peter C. Erickson at 9:30 a.m. on Thursday, December 31, 1992 in the First Floor Hearing Room, 133 East Seventh Street, St. Paul, Minnesota. The record closed at the conclusion of the hearing.

Michael A. Sindt, Special Assistant Attorney General, 1100 Bremer Tower, 82 East Seventh Place, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce, Complainant herein. The Respondent, Illuminations, One Treasure Lane, P.O. Box 286, Dairy, New Hampshire 03038-0286, did not appear at the hearing.

Notice is hereby given that, pursuant to Minn. Stat. 14.61 the final decision of the Commissioner of the Minnesota Department of Commerce shall not be made until this Report has been made available to the parties to the proceeding for at least ten days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Commissioner. Exceptions to this Report, if any, shall be filed with the Commissioner.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

STATEMENT OF ISSUE

The issue to be determined in this proceeding is whether the "temporary Order to Ban" should be vacated, modified or made permanent.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On December 24, 1992, the Minnesota Department of Commerce served, by certified mail, a temporary Order to Ban, Notice of and Order for Hearing and Order to Show Cause upon the Respondent, Illuminations, a New Hampshire Corporation. The Judge has not been contacted by a representative of Respondent concerning this hearing, a need for a continuance, or the reason for Respondent's failure to appear.

2. The factual allegations contained in the Temporary Order to Ban and Notice of and Order for Hearing are hereby incorporated by reference as facts.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following conclusions.

CONCLUSIONS

1. The Commissioner of Commerce and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. 325F.10, 14.50, and Minn. Rule 2630.0500. The Notice of Hearing was proper in accordance with Minn. Rule 2630.0500.

2. The Respondent, having failed to appear at the hearing in this matter, is in default. Pursuant to Minn. Rule 2400.6000, the allegations contained in the Notice of Hearing are hereby taken as true.

3. The Respondent, has violated Minn. Stat. 325F.08 by offering for sale in Minnesota a toy which contains mercury.

4. The above-violation constitutes sufficient grounds to continue the Temporary Order to Ban.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Commissioner of Commerce make permanent the Temporary Order to Ban issued to the Respondent on December 24, 1992.

Dated this day of January, 1993.

PETER C. ERICKSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default